

Department of Housing and Community Development

Initial Statement of Reasons (ISOR)

Amendments to Regulations for the Multifamily Housing Program regarding Supportive Housing

INTRODUCTION

This Initial Statement of Reasons (ISOR) provides conceptual and factual support for regulations governing the supportive housing component of the Multifamily Housing Program administered by the Department of Housing and Community Development (“HCD” or the “Department”).

BACKGROUND / PURPOSE

BACKGROUND: Effective January 1, 2000, the Legislature created the Multifamily Housing Program (MHP) which created an omnibus rental housing loan program for affordable rental housing development combining, among other programs, the Rental Housing Construction Program and the California Housing Rehabilitation Program for Rental Housing. In developing regulations for MHP, the Department had extensive discussions with prospective sponsors, borrowers and co-lenders of affordable housing projects. The Legislature passed and the Governor approved the Housing and Emergency Shelter Trust Fund Act of 2002 (SB 1227). This Act, filed on April 22, 2002, provided for the submission of Proposition 46 to the voters at the November 5, 2002 election. Upon passage, the Act authorized the issuance of two billion one hundred million dollars of general obligation bonds. Further, the Act specifically provided \$195,000,000 to be used under the Multifamily Housing Program for Supportive Housing projects. Subsequently, Assembly Bill 1475, signed by the Governor on September 28, 2003, amended Sections 50675.14 and 53533 of the Health and Safety Code.

PURPOSE: The purpose of these regulations is to conform the regulations for MHP to the aforementioned statutory changes and establish in regulation the existing supportive housing related program procedures and policies.

FACTUAL BASES: The factual bases for these changes come from HCD’s long experience in administering affordable rental housing assistance including housing for populations with special needs and from recent consultations with customers regarding potential changes in the MHP regulations related to supportive housing projects.

RULEMAKING STRATEGY

The Department currently operates the Multifamily Housing Program under existing regulations (CCR Title 25, Division 1, Chapter 7, Subchapter 4, sections 7300 – 7336). As authorized by

Health and Safety Code Sec. 50675.11, it has been operating the supportive housing component of the Multifamily Housing Program since January 2003 under these regulations, supplemented on a temporary basis by guidelines (in the form of a Notice of Funding Availability). These guidelines interpreted provisions of the Act applicable exclusively to projects receiving funds designated for supportive housing.

This regulatory package proposes to amend the MHP regulations by adding Article 6 specifically addressing supportive housing projects. The proposed amendments are based largely on the guidelines, and on the Department's experience over the last year and a half administering the supportive housing component of the program.

Included in the proposed amendments are some restatements of key provisions of other Articles that have been frequently missed by program users using the guidelines. These restatements are designed to reduce the likelihood of missing these provisions.

PROPOSED REGULATIONS

Section: 7340. General

Requirement or Necessity: It is customary and useful to the reader to begin a body of regulations with a statement of their authority, purpose and the general activities which they regulate. In this case, subsection (a) also cites the statutory basis and authority. HCD is authorized to adopt regulations pursuant to its general authority (Health & Safety Code Sec. 50406(n), and for each specific program (MHP – Health and Safety Code Sec. 50675.1(c), 50675.3).

Documentation, Study or Report: Existing regulations for 17 HCD loan and grant programs were surveyed. Sixteen have initial sections titled “General,” “Purpose,” “Scope and Authority,” “Purpose and Scope,” etc. These sections provide information similar to that in section 7340.

Alternatives Considered: None. Not to have a general introductory section would reduce the accessibility of the regulations and statutes to the user, and would have the benefit only of shortening the regulations by a fraction of a page.

Prescribed Actions, Procedures, Technologies or Performance Standards: None.

Fiscal and Economic Impacts: None.

Section: 7341. Definitions

Requirement or Necessity: It is customary and useful to the reader to begin a body of regulations with a statement of their authority, purpose and the general activities which they regulate.

Documentation, Study or Report: The definitions in this section are nearly identical to those used by the program during the period that it has been operating under guidelines as permitted by statute. As detailed below, many are derived from other similar programs.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: This section sets several performance standards, as noted in the discussion of each subdivision.

Fiscal and Economic Impacts: None.

Discussion:

Note: Throughout the regulations, terms that are defined in this section are capitalized.

Subsection (a): “Supportive Housing Unit” Projects financed by MHP often include several types of units. This definition is necessary to differentiate units eligible for funding with program funds reserved for supportive housing. The term “supportive housing” is defined in Health and Safety Code Section 50675.14(b) as “housing with no limit on length of stay that is occupied by the target population as defined in subdivision (d) of Section 53260, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.”

The introductory text (before the numbered subdivisions) reflects the requirement of H&S section 50675.14(b) that supportive housing be permanent housing (without a limit on the length of stay) and linked to services. The reference to “Eligible Household,” a term defined in the existing regulations for the MHP program, makes it clear that tenants must meet the income eligibility requirements applicable to all units assisted by MHP.

Subdivision (a)(1) specifies that Supportive Housing Units must be occupied by households that are either homeless or at-risk of homelessness, and that include a disabled adult. This subdivision is based on three statutory provisions. The requirement that households be homeless or at-risk of homelessness is from H&S section 53533(a)(3), which requires that funds from the supportive housing component of MHP be used to “serve individuals and households moving from emergency shelters or transitional housing or those at risk of homelessness.” The requirement that assisted households include a disabled adult interprets H&S section 50675.14(b), which specifies that assisted housing must “be occupied by the target population as defined in subdivision (d) of 53260,” and subdivision (d) of H&S section 53260, which defines the target population to mean “adults with low incomes having one or more disabilities.”

Although the statutory language does not explicitly authorize use of program funds to serve homeless people living without shelter (who are not technically “moving from emergency shelters or transitional housing”), it was clearly not the intent of the Legislature or the voters to exclude them. The official summary of Proposition 46 that appeared in the official voter guide distributed by the Secretary of State, for example, referred to using the funds to provide “housing with social services for homeless and mentally ill,” with no indication that those living without shelter would not be served.

Similarly, the statute does not expressly authorize use of program funds to house members of a disabled person’s family. However, requiring that disabled persons separate from their family in order to obtain stable housing is clearly not in the best interests of the disabled population intended to be assisted with these funds.

The purpose of subdivisions (a)(2) through (a)(4) is to distinguish permanent housing for independent living from housing provided in temporary institutional settings, consistent with the definition of “supportive housing” in H&S Code Sec. 50675.14(b). The provisions of these subdivisions are derived from the definition of “supportive housing” found in (H&S Code Sec. 1504.5(c)(2)) (Ch. 428, Stats. of 2002, AB 1425). The purpose of AB 1425 was to distinguish between independent living situations that do not need to be licensed by the state, and living situations involving care and supervision, that do require licensing (See Senate Rules Committee, Office of Senate Floor Analyses, AB 1425, 8/13/02, and see Assembly Floor Analysis, AB 1425, as amended June 29, 2002, prepared by Sherry Novick). Although the definition of “supportive housing” found in 1504.5(c)(2) does not directly apply to MHP, expresses the intent of the Legislature regarding the distinction between institutional care facilities, that require state licensing, and housing for persons living independently. For this reason, the Department has chosen to include these criteria in the definition of “supportive housing unit.”

Subdivision (a)(2)(A) mandates that the tenant occupying a supportive housing unit hold a lease or rental agreement in their own name and be responsible for paying rent. This provision is intended to clarify the difference between permanent housing, where this arrangement is the norm, and institutional care, where there may be no rental agreement, and where the occupant is not responsible for making rental payments.

Subdivision (a)(2)(B) requires that each tenant have their own private room or apartment, and that they have control over their roommates, if any. This again is the norm in private rental housing, but not in institutions, emergency shelters or transitional housing.

Subdivision (a)(2)(C) clarifies the meaning of “permanent,” and helps differentiate supportive housing from transitional housing and similar facilities that limit the duration of occupancy.

Subdivision (a)(3) is a further attempt to distinguish permanent supportive housing from health facilities, hotels, emergency shelters, and other facilities that are not subject to landlord-tenant laws.

Subdivision (a)(4) specifies that tenants cannot be forced to participate in a service program as a condition of occupancy. This prohibition reflects the dominant school of thought among those active in the supportive housing field. It is based in part on the theory that a significant proportion of the neediest homeless populations, such as the mentally ill, are unlikely to accept housing if it is tied to mandatory services, and that the most effective way to meet their needs is to provide housing with ready access to services that they may use on a voluntary basis. It also derives from the more philosophical notion that people should not be evicted from their permanent home due to behavior that is unrelated to their ability to meet their obligation as a tenant.

Subdivision (a)(5) limits the income of incoming tenants to greater of 30 percent of area median income, which is the income limit commonly used to define “extremely low-income” households, or 30% of state median income. This income limit is designed as a safeguard, to ensure that new tenants are likely to qualify as homeless or at-risk of homelessness, a condition that is sometimes difficult to verify. It references the state median income statistic to avoid screening out households who are unquestionably quite poor, compared to most Californians, but who fail to qualify under the 30% of area median income standard because they live in area with large numbers of other very poor people.

Since homeless people often have incomes that are difficult to conclusively document, this subdivision allows for waiver of the documentation requirement in the case where documentation is not possible.

Subsection (b): “Homeless” is defined based on the definition employed by federal homeless programs, at 42 USC 11302. Since most funding for this population is federal funding, the federal standard is the industry standard. In addition, many project sponsors combine federal homeless funding with MHP supportive housing funding on the same project, and having common definitions minimizes the administrative complications that would be associated with differences between the two.

The text of subdivision (b)(3) is nearly identical to the federal regulation. Subdivisions (b)(1) and (b)(2) have been added, to clarify that households qualify if they are coming from emergency shelters and transitional housing. This concept is arguably already covered by subdivision (b)(3), but HCD believes that a straightforward clear statement to this effect would avoid confusion.

Subsection (c) of the federal statutory definition excludes from eligibility for federal homeless assistance those imprisoned or “otherwise detained.” HCD is not proposing this exclusion for MHP, because it believes that there are many individuals on parole or otherwise involved with the criminal justice system that could benefit from the program.

Subsection (c): “At Risk of Homelessness” is not a term defined under federal program rules, which generally do not permit this population to be served with funding targeting the homeless.

The proposed definition was developed with substantial input from two groups that provide technical assistance to supportive housing sponsors, the Corporation for Supportive Housing and

Shelter Housing Partnership. In the absence of definitive research findings on the exact link between homelessness and various potential risk factors, it is based on the general thinking among those who provide services and shelter to the homeless.

The proposed definition refers to two sets of extremely low-income households, described in (c)(1) and (c)(2) respectively. The first set includes those with incomes at or near the income level of Supplemental Social Security (SSI) recipients. SSI is a common income source for occupants of supportive housing. The second set includes those with slightly higher incomes, but who have some identifiable immediate housing problem that increases their risk of becoming homeless.

The theory behind the definition is that households with SSI-level incomes are so poor that it takes little to precipitate a crisis in their lives that results in homelessness, and that those with somewhat higher incomes that are in unstable housing are also significantly at risk.

With respect to the specific income levels used in the definition, 20 percent of State Median Income is a defined income level under MHP, designed specifically to target those on SSI and similar income support programs. In acknowledgement of the fact that a bare subsistence income is greater in some parts of the state than in others, the definition allows 20% of the local area median income to be used as the eligibility standard in counties where this figure exceeds 20% of the statewide number. Similarly, 30 percent of area median income is a standard definition of “extremely low income”, which is typically the lowest income population group referenced in analyses of housing issues. In most areas of the state, it exceeds the SSI income level. In some rural counties, however, it is equivalent to the SSI income level (about 20 percent of State Median Income). For this reason, and consistent with the intent to target a group with incomes somewhat above the SSI income level, the definition allows sponsors in those counties to use the higher 30 percent of State Median Income benchmark.

The specific risk factors identified in the numbered subdivisions of (c)(2) were proposed by Corporation for Supportive Housing or Shelter Housing Partnership. They reflect the general sense of the provider community that many people become homeless when they are evicted, released from an institution, live in highly overcrowded or severely dilapidated housing, or are severely rent burdened.

Subsection (d): “High Risk of Homelessness” is an expression used in H&S subdivision 50675.14(c)(1) to describe a population that that is to receive priority for purposes of project funding decisions. This statutory provision suggests that there are some members of the “at risk” group that are more at risk than others. However, HCD was unable to locate data supporting the identification of particular subsets of the at risk population as more at risk than others. It also believes that those that are actually homeless need program assistance at least as much as those who are at risk of becoming homeless, and doubts that the Legislature meant to discourage program users from serving them. For these reasons, HCD proposes to define “High Risk of Homelessness” to include all households that qualify as either “Homeless” or “At Risk of Homelessness.”

Subsection (e): “Disabled Adult” is a key term used in the definition of Supportive Housing Unit. The proposed definition for this term closely follows the definition of “target population” at H&S section 53260(d). As noted in the discussion of subdivision (a)(1) above, H&S section 50675.14(b) requires that supportive housing assisted by the program be occupied by this group.

The statutory definition of “target population” does not specify what constitutes an adult. The definition proposed for these regulations would consider individuals adults if they are either at least 18 years of age, or an emancipated minor. This definition is consistent with Family Code Sec. 6501, which specifies that “an adult is an individual who is 18 years of age or older” and with Family Code Sec. 7050, which provides that “an emancipated minor shall be considered as being an adult” for a long list of purposes, including establishing their own residence. From a policy perspective, the inclusion of emancipated minors also clarifies that sponsors may serve all members of particularly needy population, disabled homeless youth. “Homeless youth” are defined in Government Code Sec. 11139.3 to include persons age 18 to 24 and emancipated minors who are homeless or at risk of becoming homeless. This section also declares that “it is the policy of this state. . . to facilitate and support the development and operation of housing for homeless youth.”

Subdivisions (e)(1) through (e)(5) repeat the list of qualifying disabilities included in the statutory “target population” definition. The conditions listed under (e)(1) through (e)(4) are all reasonably well defined in the service provision industry, so there is no need to precisely define them.

Subdivision (e)(5) defines the disability listed in the statute as “other chronic health conditions.” In contrast to the conditions listed under (e)(1) through (e)(4), this condition lacks a standard meaning. The definition proposed here defines it based on eligibility for several health and supportive service programs for individuals with health conditions that impair their physical functioning. If someone has sufficient health problems to qualify for one of these other programs, they would be deemed to be disabled for purposes of the supportive housing component of MHP.

The approach of this definition is to rely on systems already in existence for determining eligibility for benefits for “disabled” populations. It was developed with the assistance of several organizations serving these populations, including the state Department of Health Services, the state Department of Social Services, a local public health department, and an operator of an adult day health care center.

Subdivision (e)(5)(A) lists two programs for individuals who are eligible to live in nursing homes, under Medi-Cal rules. The Multipurpose Senior Services Program is a permanent program. As suggested by its name, the Assisted Living Waiver Pilot Project is a pilot effort. If successful, it will be replaced by a permanent program with a different name. For this reason, the proposed regulation identifies successor programs as having the same status as the current pilot.

Subdivision (e)(5)(B) provides that individuals eligible for at least 20 hours per week of personal care services under the In Home Supportive Services program (IHSS) also would be deemed to

have sufficient health programs to qualify as disabled under MHP. IHSS serves a wide range of clients, including many who have health conditions of limited severity, and who are not aptly described as “disabled.” For this reason, the proposed regulation requires that individuals be qualified to receive a substantial number of hours for bathing, dressing and other “personal care” services. Eligibility for assistance with the performance of household chores, such as shopping and cleaning, does not count. The specific 20-hour requirement comes from the classification system used by the Department of Social Services, which administers IHSS. Social Services deems individuals receiving this number of personal care hours to be “severely impaired.”

Subdivision (e)(5)(C) refers to a federally established program that provides health care and supportive services to elderly individuals who have been determined to be eligible for nursing home care.

The final sentence of Subsection (e) clarifies that eligibility for the service programs identified in this subsection must be determined by the agencies who operate these programs, and not by the recipient of the MHP loan or a service provider working with them. The purpose of this requirement is to ensure that there is a rigorous, independent evaluation performed.

Section: 7342. Eligible Project

Requirement or Necessity: The section describes basic project eligibility requirements.

Documentation, Study or Report: Some of the requirements established in this section were derived from the existing MHP regulations.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: This section sets several performance standards, as noted in the discussion of each subdivision.

Fiscal and Economic Impacts: None.

Discussion:

This section begins with a reminder that the existing MHP regulations include project eligibility requirements that are applicable to the supportive housing component.

Subsection (a) requires that the minimum number of Supportive Housing Units in the project be the greater of 5 units or 35 percent of the total units in the project. This requirement parallels the requirement in the general component of the program that projects must restrict a minimum of 5 units to Special Needs Populations to receive any application scoring points for serving this group, and that they must generally restrict 35 percent of total units to receive the maximum available scoring points. The purpose behind both of these requirements is to ensure that the project has sufficient Supportive Housing or Special Needs Population units to accord it the favorable treatment given these project types, while allowing for projects that combine

Supportive Housing or Special Needs Population units with other units open to the general public.

Subsection (b) restates the requirement included in subsection (a) of Section 7341 that the supportive housing units be used as permanent housing, rather than as a treatment facility, emergency shelter or transitional housing. Many readers will likely have backgrounds in the shelter or transitional housing arenas, and making it clear that this program component cannot fund these activities will save time for both them and HCD staff.

Subsection (c) makes it clear to the reader, early on in the regulations, that applications will be evaluated using a scoring system, and that a minimum score is required to receive a commitment. HCD expects that this reference will prompt many readers to turn to the section on this scoring system, to see if they have a chance of achieving the minimum score, before reading further.

Subsection (d) is a restatement of a clause in H&S section 50675.14(b), regarding the key link between housing and services in supportive housing.

Subsection (e) establishes a requirement that the primary service provider for the project has at least 24 months experience providing services to the population targeted by the project, and a history of securing funding for this activity. The purpose of this requirement is to increase the likelihood that the supportive services that are essential to the success of the project will in fact be available over an extended period of time, and that services will be provided by entities with expertise in addressing the needs of the particular population being served. It has not been an obstacle thus far in developing successful project applications.

Subsection (f) establishes a minimum experience requirement for property management agents who will manage funded projects. Experience in various HCD programs, as well as those operated by other agencies, has shown that managing housing for the disabled and other special populations requires special skills. The purpose of this subsection is to ensure that entities with these skills manage projects funded by the program.

Subsection (g) restates for emphasis a provision of the Uniform Multifamily Regulations, which govern MHP and two other HCD programs. This provision is included in the definition of Rental Housing Development (Section 8301), and specifies that health facilities and several forms of residential treatment facilities do not qualify for funding. It is restated here because the program receives many inquiries from organizations that would like to use program funds for these types of facilities.

Section: 7343. Eligible Sponsor

Requirement or Necessity: This section is necessary to ensure that project sponsors have sufficient experience to successfully develop and operate a supportive housing project.

Documentation, Study or Report: None.

Alternatives Considered: See discussion section.

Prescribed Actions, Procedures, Technologies or Performance Standards: This section specifies a standard for the duration of experience in the field sufficient to qualify for program funding.

Fiscal and Economic Impacts: None.

Discussion:

Subsection (a) requires that project sponsors have at least two years prior experience owning a somewhat similar project.

Owning and operating supportive housing is difficult, and requires special skills and motivation. The purpose of the requirement is to ensure that sponsors have at least some significant track record in this particular field, prior to using large amounts of scarce state funds.

Various minimum experience periods were considered, ranging from six months to five years. Two years was a number that emerged from stakeholder discussions before the program began operation. This period was felt to be long enough to show organizational commitment to supportive housing, and to establish a track record that was long enough to evaluate. It was also deemed to be short enough to allow participation in the program by organizations that had only recently entered the supportive housing field. In the operation of the program thus far, the two year minimum has not resulted in a dearth of applications.

Subsection (b) describes a feature of the application selection process that, in effect, functions as an eligibility requirement. It is mentioned in this section to alert potential applicants to the potential that they will not qualify for assistance if they do not meet this requirement. The rationale for the requirement itself is discussed below, with regard to Section 7346(a)(2).

Section: 7344. Application Requirements

Requirement or Necessity: This section covers additional application requirements for supportive housing projects, beyond those applicable to MHP projects in general. It is necessary because the evaluation of supportive housing projects requires gathering special information, including information on the services that will be provided along with the housing. In addition, the statute governing MHP's supportive housing funding mandates use of special evaluative criteria; it is necessary to request additional information to apply these criteria.

Documentation, Study or Report: None.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: This section details application requirements unique to supportive housing projects.

Fiscal and Economic Impacts: None.

Discussion: The introductory sentence makes it clear that the application requirements applicable to other project types also apply to applications for supportive housing funding, and that the topic of this section is those supplemental requirements applicable to supportive housing.

Subsection (a) specifies that funding applications must include information required to determine whether the eligibility requirements of the two previous sections have been met. This subsection requires that the application include a reference, so that the applicant's claims can be readily verified.

Subsection (b) requires the application to include information on the supportive services that will be provided along with the housing, in the form of a "supportive services plan." Such services are a key component of supportive housing. This is why "supportive housing" is defined in the statute governing these funds (H&S section 50675.14(b)) to be housing that "is linked to onsite or offsite services...." Since the required elements of the plan are numerous, they are included in a separate section, 7345.

Section: 7345. Supportive Services Plan

Requirement or Necessity: See the discussion of subsection (b) of section 7344, above.

Documentation, Study or Report: None.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: None.

Fiscal and Economic Impacts: None.

Discussion:

Subsection (a) requires a description of the tenants to be served. Different tenant populations living in supportive housing require different services. To be able to evaluate a service program, you first need to know the characteristics of the population(s) that will be served.

Fair housing is a major issue in supportive housing, and sponsors may have difficulty following it. For this reason, subsection (a) includes a reminder that compliance with fair housing law, including its "reasonable accommodation" provisions, is a requirement.

Subsection (b) requires identification of the service needs of each population to be served by the project. Once the population is identified, the logical next step in planning a service program for them is determining their service needs.

Subsection (c) requires that the services and the service provider be described in enough detail to be able to evaluate whether the services genuinely match the needs of the targeted tenants, and whether the provider appears to have the experience needed to successfully work with these tenants. This subsection also requires specification of where services will be delivered. Many

people who would benefit from supportive housing will not use services that are difficult to access, so it is important to know where they are being delivered. A perfect services program located outside the immediate community may not be adequate.

Subsection (d) requires a description of the services staffing for the project, so that an evaluation can be made of whether there are enough of the right kind of staff to meet the service needs of the particular group being served.

Subsection (e) requires a detailed, line item budget for the proposed services, together with identification of funding sources to cover the budget. This provides another check on the realism of the planned service program, and discourages applicants from identifying services that they have no ability to fund.

Subsection (f) asks for a tenant engagement plan. Many individuals who would benefit from supportive housing have a history of resisting services. Programs that are successful in serving them often have an active outreach, or “engagement” component.

Subsection (g) requires documentation at the time of application that at least a quarter of the necessary services funding has been committed, unless the sponsor can document a solid history of securing similar service funding.

As described above, services are a key component of supportive housing. The purpose of requiring a certain level of service funding to be committed at the time of application is to avoid the expenditure of program staff time, and tying up program funds, for projects that are ultimately unable to secure service funding. However, service funding commitments are difficult to obtain at a point in time that may be up to two years before the services will be provided. For this reason, groups without a track record are required to obtain commitments totaling only a quarter of the total services budget, and applicants that can demonstrate a history of securing service funding in the past may be exempted.

The last sentence of this subsection makes it clear that, while only a quarter of the necessary services funding need be committed at the time of application, all of it will need to be firmly lined up by the time the MHP funds are released. The purpose of this parenthetical provision is to clearly put applicants on notice regarding their required future performance in this area. The purpose of the requirement itself is to ensure that necessary services are available for the tenants when they occupy the completed project.

Subsection (h) requires a services funding or regulatory agency to vouch for the adequacy of the proposed services and service staffing level, and the legitimacy of the proposed service provider. This provision is intended to provide a check on these items from an independent third party active in funding or regulating the type of services proposed for the project.

Subsection (i) describes optional information that an applicant may include in their application if they want to be scored under the “leverage” scoring category using a point system that is more generous than normal. The rationale for this favorable scoring is discussed in connection with section 7346(c). To be eligible for it, as specified in section 7346(c), applicants must

demonstrate both 1) “collaboration with programs that meet the needs of disabled tenants at High Risk of Homelessness” and 2) “a focus on measurable outcomes and a plan for evaluation.”

Subdivision (i)(1) repeats for clarity the explanation of what constitutes collaboration found in section 7346(c)(1), specifies that acceptable evidence of collaboration must be in writing, and must include sufficient details to allow HCD to assess whether it is genuine or not.

Subdivision (i)(2) specifies the information that must be submitted to demonstrate “a focus on measurable outcomes and a plan for evaluation” for application scoring purposes.

Section: 7346. Application Point Scoring

Requirement or Necessity: This section is necessary to provide guidance on how applications are selected for funding.

Documentation, Study or Report: None.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: None.

Fiscal and Economic Impacts: None.

Discussion: Article 3 of the existing MHP regulations sets forth in considerable detail an application selection process for the general program, including a point scoring system for choosing between competing applications. This section establishes some special scoring rules for supportive housing, reflecting both statutory requirements applicable only to the supportive housing funds and HCD’s experience processing this type of application.

Subsection (a) specifies a procedure for using the “over-the-counter” application process authorized under section 7317(c)(4) of the existing regulations for supportive housing funds. (“Over-the-counter” means that applications are evaluated as they are submitted, rather than after a fixed application deadline, and that they do not compete directly against each other.) This is the procedure the Department has been using since August 2003.

Subdivision (a)(1) requires that applications submitted over-the-counter score at least 125 out of 150 available points. A threshold scoring requirement is mandated by section 7317(c)(4). It is designed to ensure that funded applications meet certain minimum quality standards. The 125-point threshold proposed here is used in the general program, and has been used thus far for supportive housing. It has worked successfully to filter out projects that clearly did not meet the objectives of the program.

The existing MHP regulations score sponsor experience based on the number of projects they have completed over the past five years. This subdivision modifies this requirement for supportive housing by extending the period of consideration to 10 years. This modification is necessary to comply H&S section 50675.14(e), which specifies the 10 years.

Subdivision (a)(2) requires, in broad brush terms, that applicants have sponsored a previous project, or, in some cases, that they partner with an experienced developer or development consultant. Without this requirement, applicants could meet the minimum threshold score with essentially no experience in the field, and no experienced partner to guide them. Based on its experience operating similar programs over the years, HCD believes that it is prudent to require at least minimal experience.

Subdivision (a)(3) is similar to (a)(2), except that it requires a minimum level of readiness rather than experience. HCD's experience is that projects that are so early on in the development process that they cannot garner the minimal points required by this subdivision are likely to either change radically as they progress or take an excessive period of time to be completed.

Subsection (b) exempts projects that use only MHP supportive housing funds (but no general MHP funds) from being penalized because they do not score well under the "smart growth" criteria used to score general MHP applications. This exemption is consistent with H&S section 50675.13, which specifies that the smart growth criteria are applicable "to funds appropriated pursuant to paragraph (1) of subdivision (a) of Section 53533. . . ." The supportive housing funds that are the subject of this regulation were appropriated by paragraph (2) of Section 53533(a), not paragraph (1).

Subsection (c) implements H&S section 50675.14(c), which stipulates that the application selection process is to give priority to projects that meet certain requirements, as detailed below. This subsection gives priority by applying a more generous point scale under a key application scoring criteria, leverage. By applying this more generous scale, applications that meet the requirements will more readily be able to qualify for a funding commitment.

Subdivision (c)(1) specifies the first requirement that must be met for an application to be scored under the more generous scoring system. It interprets H&S section 50675.14(c)(1), which expresses this requirement in terms of serving "persons with disabilities who would otherwise be at high risk of homelessness, where the application for funding demonstrates collaboration with programs that meet the needs of the supportive housing residents' disabilities." As described in earlier sections of this document, tenants must be disabled and at high risk of homelessness to qualify for occupancy, so there is no need to address these characteristics here. The key issue in interpreting this statutory provision is how to define "collaboration" with programs that address the tenants' disabilities.

In the supportive housing field, most funding sources and experts stress collaboration between service providers, and between housing providers and service providers. This emphasis derives from the historical tendency of these groups to avoid working together, often at the expense of the people they serve. Consistent with this history, HCD initially considered defining collaboration to include only those arrangements that involved the project sponsor working with fully independent service providers. In exploring this alternative, however, it became aware that there are some housing sponsors that run substantial service programs themselves, either directly or through affiliate organizations. As a result, it proposes that collaboration include working with both external and internal service providers.

Subdivision (c)(2) describes the second requirement that must be met to qualify for scoring under the more generous point system. It interprets H&S section 50675.14(c)(2), which expresses this requirement as having “a focus on measurable outcomes, and a plan for evaluation....”

This statutory provision could be implemented in many ways. If the cost of collecting data was not an issue, the best way would probably be to require evaluations by people with special program evaluation skills, to collect comprehensive information on service utilization (including the cost of these services) and perceived quality of life. Since gathering extensive information is probably too expensive and too difficult for most potential project sponsors, however, HCD believes it is best to aim for a more modest system.

Another alternative would be to specify particular outcomes that must be measured, and that could be measured at a relatively low cost. The Department received one recommendation that included this alternative, and suggested measuring the number of days residents were homeless, incarcerated, hospitalized, housed in a residential treatment facility, or housed in a homes facility. This alternative would have the advantage of allowing for data from different projects to be readily aggregated.

The first part of the approach proposed in this draft regulation – measuring residential stability, skills or income, and self-determination -- is drawn directly from HUD’s evaluation and reporting requirements for its competitive homeless programs. The main reason for proposing to adopt this measurement scheme is that many potential project sponsors already use it, and creating a separate system for projects funded through this state program would add to their administrative burden. In addition, the HUD system has been in use for a number of years, and refined through practice.

The second part of the approach included in this subdivision gives extra credit for measuring service utilization. This addition reflects the concern of the Legislature with this subject, as expressed in the findings section of the bill that added H&S section 50675.14(c)(2), which states in part that supportive housing “has demonstrated effectiveness in improving housing outcomes and reducing utilization of costly emergency and inpatient services. . . .” (Section 1(b) of AB 1475 of 2003).

HCD acknowledges that it lacks expertise in outcome measurement, and is particularly interested in receiving comments on this provision.

Subdivision (c)(3) details the more generous point scale that is to be applied to projects that meet the requirements of (c)(1) and (c)(2). This scale is patterned after a similarly advantageous scale currently used to score leveraging for rural projects in the general portion of the program, as set forth in Section 7320(b)(5). Both rural projects and supportive housing projects begin to receive points when the level of funding from other sources reaches 55% of the MHP amount.

Subdivision (c)(3)(A) applies to projects that mix supportive housing and other units. For these projects, one-half point is awarded for each 5% increment over 50%, which is the same scale used to evaluate rural projects in the general program. For example, if other funds equal 55% of

the MHP loan amount, one-half point is awarded. If other funds equal 60%, one point is awarded.

Subdivision (c)(3)(B) applies to projects that consist entirely, or nearly entirely, of Supportive Housing Units. These projects tend to have extremely low rents, and consequently require more subsidy than mixed projects. For this reason, they are accorded more generous treatment than mixed projects. To follow the example cited immediately above, if other funds equal 55% of the MHP loan amount, one point is awarded. If other funds equal 60%, two points are awarded.

Subdivision (c)(3)(C) specifies the additional advantage to be given to projects that commit to measure service utilization, as discussed above. The 2 point bonus for this action is designed to encourage applicants to make this commitment, without severely penalizing applicants who lack the financial resources to do this.

Section: 7347. Reporting Requirements

Requirement or Necessity: Submission of the items described in subsections (a), (b) and (c) is specifically required by H&S section 50675.14(f)(1). Submission of the item described in subsection (b) is required by H&S section 50675.14(c)(2).

Documentation, Study or Report: None

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: None, beyond requiring information required by statute.

Fiscal and Economic Impacts: None.

Discussion: The introductory sentence specifies that the required information is to be submitted along with the required fiscal audit. It is administratively easier for both the sponsor and HCD to have one annual report submission deadline, and to process both types of information together rather than separately.

Subsections (a) - (d) are derived directly from the statutory provisions identified under the “Requirement or Necessity” heading. Subsection (d) clarifies that data on outcomes is to be submitted along with the statutorily required evaluation of this data.